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Report of the United Nations Special Rapporteur on the right to education

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the right to education submitted by Vernor Muñoz, Special Rapporteur on the right to education, in accordance with Human Rights Council resolution 8/4.

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Summary

The present report is submitted pursuant to Human Rights Council resolution 8/4, which renewed the mandate of the Special Rapporteur on the right to education and asked him to present a report to the General Assembly. In his report, the Special Rapporteur will focus on the human right to comprehensive sexual education, an issue that has been a source of interest and concern since the beginning of his mandate.

The Special Rapporteur introduces the topic of the right to sexual education, placing it in the context of patriarchy and control of sexuality. He explains the interdependence of sexuality, health and education and the relationship of this right to other rights from a gender and diversity perspective. The Special Rapporteur also introduces the right to sexual education in the context of international human rights law and analyses international and regional standards. He then addresses the situation of the right to sexual education, taking State responsibility into account and analysing regional and national trends, differing perspectives and the key role of the family and the community. The Special Rapporteur concludes his report by reiterating the necessity and the relevance of the right to comprehensive sexual education and presenting specific recommendations for States and the international community.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 8/4, adopted on 18 June 2008, which requested the Special Rapporteur to report also to the General Assembly. Since the submission of his previous report, the Special Rapporteur has held countless working meetings with governments, United Nations agencies and other multilateral bodies, teachers' unions, non-governmental organizations (NGOs), universities, students and national human rights institutions in almost all regions of the world. The Special Rapporteur wishes to thank the Latin American Committee for the Defence of Women's Rights for its assistance with the preparation of this report.

2. In the report, the Special Rapporteur will focus on the issue of the human right to comprehensive sexual education and will analyse the current international standards in that area. The topic has been a source of interest and concern to him since the beginning of his mandate.[1] The submission of this report marks the end of the mandate of its author, Vernor Muñoz, which will conclude on 31 July 2010.

3. The Special Rapporteur is aware of the concerns surrounding the topic under discussion[2] and wishes to affirm his respect for the wide range of opinions on the matter while emphasizing that the right to sexual education is grounded in human dignity and in international human rights law.

4. States must ensure that they do not restrict individuals' access to appropriate services and necessary information and must remove social and regulatory barriers to information on sexual and reproductive health and health care, as stated in the Cairo Programme of Action of the International Conference on Population and Development.[3] In any event, the parents and other legal guardians of students must also provide appropriate direction and guidance on sexual and reproductive matters.

5. Sexuality is an activity that is inherent to human beings and includes many personal and social factors. However, this activity is usually kept hidden or is associated exclusively with reproduction for various cultural, religious and ideological reasons, most of them related to the persistence of patriarchalism.

6. The modern State, as a democratic construct, must ensure that all its citizens receive a good education and must not allow religious institutions to set patterns of education or conduct that are claimed to apply not only to their followers but to all citizens, whether or not they belong to the religion in question. Consequently, the Special Rapporteur has noted with particular concern various instances in which sexual education has been obstructed in the name of religious ideas. He reiterates that comprehensive education acts as a guarantor of a democratic and pluralistic environment.

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[1] See document E/CN.4/2006/45.

[2] See United Nations Educational, Scientific and Cultural Organization (UNESCO), *International Guidelines on Sexuality Education: An evidence informed approach to effective sex, relationships and HIV/STI education* (2009).

[3] See the Programme of Action of the Cairo International Conference on Population and Development.

A. Patriarchalism and control of sexuality

7. As noted by the Special Rapporteur in paragraphs 17 and 18 of his report (E/CN.4/2006/45), patriarchalism is a system of social order imposing the supremacy of men over women, although it also determines strict roles for men and even divides the sexes against themselves. In addition to gender inequality, patriarchalism impedes social mobility and stratifies social hierarchies.

8. Patriarchalism is therefore a system which causes and perpetuates serious and systematic human rights violations, such as violence and discrimination against women. Education is the main fundamental tool for combating patriarchalism and generating the cultural shift so necessary for equality among individuals. When it is not properly organized, the education system has the opposite result, perpetuating injustice and discrimination.

9. One of the main methods used by the patriarchal system and its agents to maintain their sway is to deprive people of the possibility of receiving a human rights education with a gender and diversity perspective.

B. Sexuality, health and education: three interdependent rights

10. Sexuality is a complex process which, as human beings, we all without exception experience throughout our life and which has biological, psychological, social and cultural aspects that must be considered from a comprehensive viewpoint.

11. Enjoyment of the highest attainable standard of physical and mental health obviously includes sexual health. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Paul Hunt, has defined sexual health as "a state of physical, emotional, mental and social well-being related to sexuality, not merely the absence of disease, dysfunction or infirmity; sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence".[4]

12. In order to achieve this state of well-being, we must be able to look after our health, deal positively, responsibly and respectfully with our sexuality and must therefore be aware of our needs and rights. This is possible only if we receive comprehensive sexual education from the outset of our schooling and throughout the educational process. To this end, school should foster pupils' critical thinking about the various expressions of human sexuality and interpersonal relations, without reducing the topic to a biological approach (reproduction).

13. As in all areas of education, sexual education must be adapted to different age groups and cultures. In addition, teaching strategies must be differentiated and flexible to meet the differing needs of female and male students, taking into account the fact that persons with special needs -- such as young people not attending school or young married women — need to be taught about sexuality through methods other than formal education, as do adults who, often because of misconceptions, do not have a full sexual life.

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[4] See document E/CN.4/2004/49, para. 53.

14. Comprehensive sexual education is extremely important in view of the threat of HIV/AIDS and sexually transmitted diseases, especially for groups at risk and persons in particularly vulnerable situations, such as women and girls exposed to gender-based violence or persons in difficult financial circumstances.[5] In paragraph 16 of its General Comment No. 3, the Committee on the Rights of the Child has emphasized that "effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and that [...] States parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality".

15. There is no valid excuse for not providing people with the comprehensive sexual education that they need in order to lead a dignified and healthy life. Enjoyment of the right to sexual education plays a crucial preventive role and may be a question of life or death. Recognizing the need for the world's population to be educated in order to prevent HIV/AIDS, the Special Rapporteur also wishes to point out that restricting sexual education to the issue of sexually transmitted diseases gives a limited view of sexuality. In his opinion, reducing sexual education to these aspects may create an erroneous association between sexuality and disease, which is as harmful as associating it with sin.

C. Concept and scope of the human right to education for sexuality

16. The UNESCO International Guidelines on Sexuality Education define it as "an age-appropriate, culturally sensitive and comprehensive approach to sexuality education that include programmes providing scientifically accurate, realistic, non-judgmental information. Comprehensive sexuality education provides opportunities to explore one's own values and attitudes and to build decision-making, communication and risk reduction skills about all aspects of sexuality".[2] Similarly, the Special Rapporteur considers that pleasure in and enjoyment of sexuality, in the context of respect for others, should be one of the goals of comprehensive sexual education, abolishing guilt feelings about eroticism that restrict sexuality to the mere reproductive function.

17. In order to be comprehensive, sexual education must provide the tools needed for decision-making in relation to a sexuality corresponding to the lifestyle which each human being chooses in the context of his or her situation. For this reason, the sexual education given to children and young people is crucial. In fact, decision makers involved in formal education should consider sexual education as an essential way of enhancing education in general and promoting quality of life. It has been said that education for sexuality is "an essential part of a good curriculum".[2]

18. However much we try to avoid it, we are always sexually informed, by action or by omission, at school, in the family, through the media, etc. Thus deciding not to offer sexual education at teaching centres is opting for an omissive form of sexual education, that leaves girls, boys and adolescents on their own as regards the type of knowledge and messages, generally negative, that they receive on sexuality. When sexual education is not explicitly provided, in practice education follows the so-

[5] UNAIDS, *AIDS epidemic update, December 2009* (available at http://data.unaids.org/pub/Report/2009/JC1700_Epi_Update_2009_en.pdf).

called hidden curriculum, with its potential load of prejudices and inaccuracies over which there can be no social or family criticism or control.

D. The right to sexual education: its relationship to other rights and the need for a gender and diversity perspective

19. The right to education includes the right to sexual education, which is both a human right in itself and an indispensable means of realizing other human rights,[6] such as the right to health, the right to information and sexual and reproductive rights.[7]

20. Thus, the right to comprehensive sexual education is part of the right of persons to human rights education.[8]

21. In order for sexual education to be comprehensive and to meet its goals, it must have a solid gender perspective. Many studies have shown that young people who believe in gender equality have better sexual lives. Conversely, when this is not the case, their intimate relations are generally marked by inequality. Sexual education should therefore focus on gender norms, roles and relationships.

22. The Special Rapporteur wishes to make it clear that gender issues are not exclusively women's issues but also involve men, who can benefit from less rigid roles and more egalitarian relationships. When the Special Rapporteur refers to the need to mainstream gender into the programming and curriculum design of sexual education, the idea is that men's issues should also be explicitly included. This is crucial in order to ensure the cultural shift that human rights require our societies to make, since the goal of education for sexuality is also to construct affects and develop a transforming role for men by going beyond the strictly genital and physical aspect.

23. In order to be comprehensive, sexual education must pay special attention to diversity, since everyone has the right to deal with his or her own sexuality without being discriminated against on grounds of sexual orientation or gender identity.[9] Sexual education is a basic tool for ending discrimination against persons of diverse sexual orientations. A very important contribution to thinking in this area was made by the 2006 Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity. The Special Rapporteur

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[6] See document E/C.12/1999/10.

[7] Cf. Alda Facio, *Los derechos reproductivos son derechos humanos*, publication of the Inter-American Institute of Human Rights, 2008. See also International Council on Human Rights Policy, Sexuality and Human Rights, Discussion Paper (http://www.ichrp.org/files/reports/47/137_web.pdf).

[8] See Inter-American Institute of Human Rights, Eighth Inter-American Report on Human Rights Education, San José, 2009.

[9] On 3 June 2008, the General Assembly of the Organization of American States adopted by consensus the resolution entitled "Human rights, sexual orientation and gender identity". In the same year, the United Nations General Assembly adopted a Declaration on the subject. International case law also deals with the question of discrimination based on sexual orientation or gender identity; see, for example, the cases of *Toonen v. Australia* in the Human Rights Committee and the cases of *Dudgeon v. United Kingdom* and *S. L. v. Austria* in the European Court of Human Rights.

fully endorses the precepts of Principle 16, referring specifically to the right to education.[10]

II. The right to comprehensive sexual education in international human rights law

A. Standards for the human right to sexual education in the context of United Nations human rights treaties

24. United Nations treaty bodies have viewed the lack of access to sexual and reproductive education as a barrier to compliance with the State's obligation to guarantee the rights to life, health, non-discrimination, education and information.[11] For example, the Human Rights Committee has urged the removal of barriers to access by adolescents to information about safer sex practices, such as condom use.[12] The Committees have also identified sexual education as a means of guaranteeing the right to health as it helps to reduce the maternal mortality, abortion and adolescent pregnancy rates and the prevalence of HIV/AIDS.[13]

25. In general, treaty monitoring bodies have expressly recommended that sexual and reproductive health education should be a mandatory component of learning. For example, the Committee on the Elimination of Discrimination against Women has called upon States to provide sexual education in a compulsory and systematic manner in schools, including in vocational training,[14] and the Committee on the Rights of the Child has recommended that States include sexual education in the official programmes of primary and secondary education.[15]

26. The Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child have stated that the right to health and the right to information require States to refrain from censoring, withholding or intentionally misrepresenting information relating to health, including sex education and sexual information.[16]

27. In its concluding observations on various countries, the Committee on the Rights of the Child has urged States to integrate sexual education into school curricula[17] and has encouraged States to provide training on HIV/AIDS and sexual

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[10] Available at http://www.yogyakartaprinciples.org.

[11] Among the treaties that protect the right to life, health, non-discrimination, education and information are the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the Convention on the Rights of Persons with Disabilities.

[12] See documents E/C.12/1/Add.106, para. 53 and CCPR/C/79/Add.110.

[13] See documents A/54/38, para. 56; CEDAW/C/LTU/CO/4, para. 25; CEDAW/C/NGA/CO/6, para. 33; CRC/C/15/Add.137, para. 48; CRC/C/15/Add.144, para. 61; E/C.12/1/Add.57, para. 27; E/C.12/1/Add.62, para. 7; and E/C.12/1/Add.65, para. 31.

[14] See documents CEDAW/C/MDA/CO/3, para. 31; and CEDAW/C/TKM/CO/2, para. 31.

[15] See documents CRC/C/15/Add.247, para. 54; and CRC/C/TTO/CO, para. 54.

[16] See documents E/C.12/2000/4, para. 34; and CRC/C/GC/2003/3, para. 13.

[17] See documents CRC/C/MUS/CO/2, para. 55; CRC/C/15/Add.261, para. 64 (c); CRC/C/15/Add.216, para. 38 (b); CRC/C/RUS/CO/3, para. 38 (b); and CRC/C/THA/CO/2, para. 58 (e).

education to teachers and other educational administrators.[18] The Committee has also criticized barriers to sexual education, such as allowing parents to exempt their children from such education.[19]

28. In accordance with the provisions of article 3 of the International Covenant on Civil and Political Rights, the Human Rights Committee in its concluding observations has expressed concern about the elimination of sexual education from school curricula[20] and the high rate of unwanted pregnancies and abortions among girls and adolescents and has requested that States should take measures to help young women avoid unwanted pregnancies, including by strengthening family planning and sexual education programmes.[21]

29. The International Covenant on Economic, Social and Cultural Rights protects the right to the highest attainable standard of physical and mental health (art. 12) and the right to education (art. 13) and prohibits all forms of discrimination (art. 2). In its general comment No. 14 (2000),[22] the Committee on Economic, Social and Cultural Rights interpreted the right to health as an inclusive right "extending not only to timely and appropriate health care but also to the underlying determinants of health", among which it highlighted "access to health-related education and information, including on sexual and reproductive health".[22]

30. In its concluding observations, the Committee on Economic, Social and Cultural Rights has called for the provision of education on sexual and reproductive health[23] and has specifically recommended sexual education as a means of ensuring the right of women to health, particularly reproductive health,[24] as well as full access to sexual education for all girls and young women, including in rural areas and indigenous communities.[25] The Committee has also recommended the development of training programmes and counselling services on reproductive health[26] and has expressed the view that sexual education and awareness campaigns are appropriate means of reducing maternal and infant mortality.[27] The Committee has associated the lack of education with the practice of abortion as a primary means of family planning[28] and has advocated education programmes aimed at eliminating female genital mutilation.[29]

31. Article 24 of the United Nations Convention on the Rights of Persons with Disabilities calls on States to ensure an inclusive education system that ensures a sense of dignity and self-worth and the full development of the mental and physical abilities of such people. Article 25 establishes that States should "provide persons with disabilities with the same range, quality and standard of free or affordable

[18] See documents CRC/C/BEN/CO/2, para. 58 (h); CRC/C/THA/CO/2, para. 58 (e); and CRC/C/TZA/CO/2, para. 49 (b).

[19] See document CRC/C/IRL/CO/2, para. 52.

[20] See document CCPR/C/79/Add.110, para.11.

[21] See document CCPR/CO/80/LTU, para. 12.

[22] See document E/C.12/2000/4.

[23] See documents E/C.12/1/Add.60, para. 43; E/C.12/1/Add.93, para. 43; E/C.12/1/Add.62, para. 47; and E/C.12/1/Add.65, para. 31.

[24] See document E/C.12/1/Add.26, para. 20.

[25] See document E/C.12/MEX/CO/4, para. 44.

[26] See document E/C.12/1/Add.57, para. 48.

[27] See document E/C.12/1/Add.91, para. 49.

[28] See document E/C.12/1/Add.37, para. 15.

[29] See documents E/C.12/1/Add.78, para. 31; and E/C.12/1/Add.62, para. 39.

health care and programmes as provided to other persons, including in the field of sexual and reproductive health".

B. The human right to comprehensive sexual education and women's human rights

32. Protection of the human right to comprehensive sexual education is especially important in ensuring the enjoyment of women's right to live free of violence and gender discrimination, given the historically unequal power relations between men and women.

33. The Convention on the Elimination of All Forms of Discrimination against Women imposes on States the obligation to eliminate discrimination against women in all public and private spheres of their lives, including education. Article 5 of the Convention calls on States parties to take all appropriate measures to modify the patterns of conduct of men and women "with a view to achieving the elimination of prejudices and customary and all other practices that are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women". Comprehensive sexual education is an indispensable means of achieving that goal. Article 10 (h) of the Convention provides that States should ensure women's "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning".

34. In its general recommendation No. 24,[30] the Committee on the Elimination of Discrimination against Women requested States to report on measures taken "to ensure timely access to the range of services which are related to family planning, in particular, and to sexual and reproductive health in general. Particular attention should be paid to the health education of adolescents, including information and counselling on all methods of family planning".[30]

35. That Committee continually calls upon States parties to implement sexual education programmes[31] and has recommended the expansion of sexual and reproductive health programmes as a necessary means of addressing high abortion and maternal mortality rates.[32] It has encouraged States parties to provide systematic sexual education in schools[33] and has specifically called for increased efforts to prevent adolescent pregnancies, including educating children about responsible partnerships and parenthood.[34]

36. In the Americas, article 6 (b) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) states that the right of women to be free from violence includes the right "to be valued and educated free of stereotyped patterns of behaviour and social and cultural practices based on concepts of inferiority or subordination".

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[30] See document A/54/38/Rev.1.

[30] Ibid., para. 23.

[31] See documents CEDAW/C/VEN/CO/6, para. 32; A/56/38, para. 62; A/55/38, para. 280; A/54/38, para. 266; A/57/38, para. 112; A/56/38, para. 274; and A/54/38, paras. 309-310.

[32] See document CEDAW/C/ROM/CO/6, paras. 24-25.

[33] See document CEDAW/C/TKM/CO/2, paras. 30-31.

[34] See document CEDAW/C/CHI/CO/4, para. 18.

37. Article 14 (1) (g) of the Protocol on the Rights of Women in Africa establishes the right to family planning education and in article 14 (2) (a), the Protocol establishes the obligation of States to provide adequate, affordable and accessible health services, including information, education and communication programmes for women, especially those in rural areas.

C. Other international standards and initiatives of relevance to the human right to comprehensive sexual education

38. The right to comprehensive sexual education is also confirmed by recommendations and declarations of international bodies, as well as by documents reflecting the global consensus among States.[35] For example, the Programme of Action adopted by the International Conference on Population and Development recognizes that sexual and reproductive health education must begin in primary school and continue through all levels of formal and non-formal education.[3] The Joint United Nations Programme on HIV/AIDS (UNAIDS) has found that sexual education is more effective if given prior to first intercourse.[36] The World Health Organization (WHO) believes that it is crucial for sexual education to start early, especially in developing countries.[37] The Organization has also provided specific guidance on how to incorporate sexual education into school curricula and recommends that sexual education should constitute a separate subject, rather than being incorporated into other subjects.[38] In addition, comprehensive sexual education is a basic tool for achieving many of the Millennium Development Goals (MDGs), such as promoting gender equality and empowering women (Goal 3), reducing child mortality (Goal 4), improving maternal health (Goal 5) and combating HIV/AIDS (Goal 6).

39. The European Committee of Social Rights set important standards on the right to sexual education in a landmark decision.[39] The Committee decided that States parties to the European Social Charter were required to provide sexual education to young people on a scientific and non-discriminatory basis without censoring, withholding or intentionally misrepresenting information, for example as regards contraception. The Committee recommended that such education should be provided throughout the entire period of schooling and stated that education in sexual and reproductive health should be designed to develop the capacity of children and young people to understand their sexuality in its biological and cultural dimensions, which would enable them to take responsible decisions with regard to sexual and reproductive health behaviour. In its decision, the Committee expressed the view

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[35] World Health Organization, *Family Life, Reproductive Health, and Population Education, Key Elements of a Health-Promoting School*, Information Series on School Health; Joint United Nations Programme on HIV/AIDS (UNAIDS), Intensifying HIV Prevention, UNAIDS Policy Position Paper 33 (2005); Cairo Programme of Action, para. 7.5 (a).

[36] UNAIDS, *Impact of HIV and sexual health education on the sexual behaviour of young people, a review update*, 2007.

[37] See World Health Organization, Adolescent Pregnancy Report, 2004.

[38] See World Health Organization, *Family Life, Reproductive Health, and Population Education, Key Elements of a Health-Promoting School*, Information Series on School Health.

[39] European Committee of Social Rights, *International Center for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia*, Complaint No. 45/2007.

that States were required to ensure that sexual education programmes did not reinforce stereotypes or perpetuate prejudices regarding sexual orientation.

40. States are required to provide comprehensive sexual education to their people, especially children and adolescents, in compliance with the standards of availability, accessibility, acceptability and adaptability established by the Committee on Economic, Social and Cultural Rights as regards the right to education.[40] This is a State obligation of due diligence since, under international law, States must show that they have taken all the measures of a preventive nature that are necessary to fulfil their obligations to guarantee the right to health, life, non-discrimination, education and information by eliminating barriers preventing access to sexual and reproductive health and by providing in schools and other educational facilities comprehensive education for sexuality giving precise, objective and unbiased information.[41] The Declaration "Preventing through education",[42] signed by the Ministers of Health and Education of Latin America and the Caribbean in 2008, is a good example of recognition of States' obligation of due diligence in this regard.

41. Article 23 of the Ibero-American Convention on the Rights of Young People establishes the right to sexual education:

> 1. The States Parties recognize that the right to education also includes the right to sexual education as a source of personal development, effectiveness and communicative expression, as well as information on reproduction and its consequences;
>
> 2. Sexual education shall be provided at all levels of education and shall promote responsible conduct in the exercise of sexuality, aimed at its full acceptance and identity and at the prevention of sexually transmitted diseases, HIV/AIDS, unwanted pregnancies and sexual abuse or violence;
>
> 3. The States Parties recognize the important function and responsibility of the family in the sexual education of young people;
>
> 4. The States Parties shall adopt and implement sexual education policies, establishing plans and programmes ensuring information and the full and responsible exercise of this right.[43]

III. Situation of the right to comprehensive sexual education from the viewpoint of State responsibility

A. Trends observed by region and by country

42. In Latin America and the Caribbean, only three countries have a high level of specific legislation on sexual education in schools. Most countries (11 cases) have an intermediate level; others have a low level (3 cases) or a zero level (9 cases).[44]

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[40] See document E/C.12/1999/10, para. 6.

[41] See document E/CN.4/2006/61, paras. 32 and 80.

[42] Http://data.unaids.org/pub/BaseDocument/2008/20080801_minsterdeclaration_en.pdf.

[43] Http://oij.org.

[44] United Nations Population Fund, United Nations Educational, Scientific and Cultural Organization, Sexual education for the prevention of HIV in Latin America and the Caribbean: a regional evaluation. Mexico, National Public Health Institute, 2008.

Moreover, it is clear that the existence of legislation does not mean that the educational programmes are actually implemented.

43. In the large majority of Latin American and Caribbean countries, the persons responsible for curriculum development are professionals in the fields of pedagogy, psychology and medicine, whereas those responsible for implementing policies on comprehensive sexual education are usually teachers.[45] The Ministries of Education and Health of many countries in this region have been very much involved.

44. In Europe, sexual education is compulsory in 19 countries and is not compulsory in six. The age when sexual education starts varies between 5 and 14.[46] Responsibility for the design and implementation of public policies on sexual education varies within the region. In some cases, the Ministry of Education is responsible, while in countries with a broader concept of sexual education several government agencies are involved in the process.[46] In most cases, teachers are responsible for policy implementation.

45. The Special Rapporteur notes that in this region, the quality of education varies not so much from country to country as within each country. For this reason, the Ministries of Education and Health play a vital role in ensuring universal application of these policies. However, major shortcomings have been observed in teacher training, which tends to perpetuate stereotypical and even discriminatory ideas. This gap undermines teachers' confidence in their ability to provide quality opportunities as regards comprehensive sexuality education.

46. According to a study by the International Congress on AIDS in Asia and the Pacific (ICAAP),[47] in East Asia most countries had sexual education policies, and many had had them since the early 1990s. Of the cases studied, the policies most widely implemented were those of Papua New Guinea, Mongolia, the Philippines and Thailand. In addition, since 2009, progress has been made in the implementation of public policies and national laws in several countries.[48] However, although some form of sexual education is provided in the region, most young people do not receive comprehensive sexual education.[48]

47. Although a number of countries in this region report HIV education policies, relatively few of them adopt a comprehensive approach since reference is rarely made to human rights, values, life skills and community participation.[48] In addition, there are no links with strategic sectors, such as health, or with reference communities with a view to the design, implementation and evaluation of the policies pursued.

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[45] Lisa M. Demaria, Omar Galárraga, Lourdes Campero, Dilys M. Walker, "Educación sobre sexualidad y prevención del VIH: un diagnóstico para América Latina y el Caribe", in *Revista Panamericana de Salud Pública*, vol. 26, No. 6, 2009, pp. 485-493.

[46] The age is 5 in Portugal; 6 in Belgium, France, Luxembourg, Ireland and Sweden; 7 in the Czech Republic and Finland; and 9 in Germany. It is 10 in Austria, Estonia, Greece and Hungary; 11 in Iceland and Latvia; 12 in Denmark, Norway and Slovakia; and 13 in the Netherlands.

[47] International Congress on AIDS in Asia and the Pacific, organized by UNESCO, the United Nations Children's Fund (UNICEF) and UNFPA.

[48] United Nations Educational, Scientific and Cultural Organization, United Nations Children's Fund and United Nations Population Fund, *Enhancing HIV Prevention for Adolescents through Effective HIV and Sexuality Education*, report of the special session, 9th International Congress on AIDS in Asia and the Pacific, Bali, Indonesia, 2009.

48. In the case of Africa, several countries do not provide any kind of planned sexual education. According to some studies, families are uncomfortable talking about sexuality with their sons and daughters; yet young girls and boys do receive some information informally from friends or through the HIV prevention programme.[49]

49. According to a UNESCO study, around 2004, 19 of the 20 African countries with the highest HIV prevalence included this subject in their primary curriculum, and 17 countries included life skills programmes. However, it was observed that implementation was very slow and left without coverage those who were not involved in formal education channels.[50]

50. As regards official curricula, in Latin America and the Caribbean information on sexuality is usually provided as cross-cutting content. According to a study of the handling of priority topics at the primary level, conducted by the National Public Health Institute of Cuernavaca, Guyana, Jamaica, Mexico, Trinidad and Tobago and Uruguay deal with all the relevant topics. Nine countries cover five of them; six consider four; five report that they cover three; and one covers only one of the six topics.[45]

51. In Europe, sexual education is taught as a cross-cutting subject. This is the case in Portugal, where it is dealt with in courses on biology, geography, philosophy and religion, and in Belgium, where the moral and ethical aspects of sexuality are dealt with in lessons on morals and religion. In Denmark, Estonia and, to a lesser degree, France, the topic is included in civics classes, adopting a broader approach. Other countries deal with it from the biological viewpoint. The focus on biological aspects does emphasize the importance of health education but often neglects relational and affective issues, undermining the comprehensive approach.

52. Despite students' preference for interactive methods, in Europe conventional teaching methods are still the most commonly used, although in some cases use is also made of the media, the Internet, videos, games and role playing.

53. In the Asia-Pacific region, sexual education tends to be provided via subjects such as biology, science and health. All the countries of the region claim that HIV education is included at the secondary level; six of them claim that it is included at the primary level and 13 include it in teacher training.[51] However, in some countries of the region, sexual education is limited to its biological or moral aspects, ignoring the broad range of areas in which it affects people's lives.[51]

54. Worthy of note are the experiences of Cambodia, which has an increasingly solid legal framework, continues to make progress in the provision of sexual education with increased funding and has mainstreamed gender into the education process; and Thailand, where sexual education has been included in the compulsory curriculum since 1978 and a manual has been developed for Muslim students. Since 2000, Viet Nam has shown a sustained commitment; education on HIV prevention

[49] Robert T. Francoeur and Raymond J. Noonan, eds. "Botswana" in *International Encyclopedia of Sexuality*, Kinsey Institute, 2004 (available at http://www.kinseyinstitute.org/ccies/bw.php).

[50] UNESCO, *Education sector global HIV & AIDS readiness survey 2004: policy implications for education & development* (Paris, May 2006).

[51] Plan International, *Sexuality education in Asia: Are we delivering? An assessment from a rights-based perspective*, 2010.

and reproductive health is included in the compulsory curriculum for children aged 10 to 12 and is taught as an extracurricular subject for those aged 6 to 9.

55. According to the International Bureau of Education, HIV/AIDS is a mandatory subject in primary education in 10 of the 18 countries in sub-Saharan Africa.[52] However, in many African countries, adolescents have no access to information on sexuality.[53] On the basis of a number of studies carried out in the region,[54] it is estimated that almost half of the people who have received sexual education received no information on topics considered to be of key importance (contraception, pregnancy and pregnancy prevention, sexually transmitted diseases and the right to say no to sex). In the vast majority of cases, sexual education is provided through lectures; only in a few cases are more effective tools, such as interactive or group activities, used.

56. The way in which sexual education is incorporated into the official curriculum is not uniform across the region. In some cases, such as in Namibia, it is included in the subject "life skills", but the content relating to HIV is inadequate and needs to be enhanced.[55]

57. According to a study carried out by the Guttmacher Institute, about half of 15-19-year-olds in Burkina Faso, Ghana, Malawi and Uganda have received some form of sexual education at school.[56] In Malawi, 66 per cent of females and 56 per cent of males aged 15-19 who have attended school report that they have not received any kind of sexual education. In Burkina Faso the challenge is greater, since more than half of 15-19-year-olds have never attended school.[56] Also, in the final years of primary education (age 12-14), young people are reaching a sexually active age and therefore need to have specific knowledge on preventing unwanted pregnancy and HIV infection. This suggests that sexual education should start before the end of primary education if it is to have some degree of effectiveness and a chance of changing behaviour.

58. Lastly, the Special Rapporteur wishes to highlight the experience of Denmark, where teacher training in sexual education is carried out in conjunction with Sex & Samfund ("Sex and Society"), the Danish Family Planning Association. The Special Rapporteur considers this to be a good example of a collaborative relationship between the State and civil society in the search for tools for promoting sexual education and providing it to the whole population. The valuable initiatives of the Latin American and Caribbean Committee for the Defence of Women's Rights should also be mentioned.

59. It is estimated that by the end of 2008, 33.4 million people around the world were living with HIV, and the number of AIDS-related deaths that year was

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[52] International Bureau of Education and UNESCO, *Assessment of curriculum response in 35 countries for the EFA monitoring report 2005: The Quality Imperative* (Geneva, 2004), p. 37.

[53] Mary Ogechi Esere, "HIV/AIDS awareness of in-school adolescents in Nigeria: Implications for adolescence sexuality", in *Journal of Psychology in Africa*, 16 (2) (2006), pp. 255-258.

[54] Guttmacher Institute, national surveys of adolescents: occasional reports 2004/2006 (New York).

[55] Ministry of Health and Social Services of the Republic of Namibia, *United Nations General Assembly Special Session (UNGASS) Country Progress Report: Reporting Period 2008-2009* (2010), p. 18.

[56] Ann E. Biddlecom and others, *Protecting the Next Generation in Sub-Saharan Africa: Learning from Adolescents to Prevent HIV and Unintended Pregnancy* (New York, Guttmacher Institute, 2007).

estimated at 2 million; almost 300,000 of that number were children.[5] In addition, various studies have revealed increasing links between violence against women and HIV/AIDS. Women who have experienced violence are at a higher risk of HIV infection.[57] The need to provide the population with sexual education as a means of prevention has been emphasized repeatedly. Thus, HIV/AIDS highlights the close link between the right to comprehensive sexual education and the right to health and to life.

60. Violence against women is another pandemic that affects the whole of humanity. It is estimated that at least one in three women throughout the world has been beaten, subjected to sexual violence or abused in some way in the course of her life. Consequently, the Special Rapporteur considers that the empowerment of women, of which sexual education forms an essential part, is a powerful defence against violation of the human rights of girls and adolescent women.[58] In addition, men who receive appropriate sex education acquire values of solidarity, justice and respect for the integrity of others and are therefore less likely to resort to sexual or gender-based violence.

B. Analysis by perspective

61. Regrettably, the rights perspective is very rarely included in sexual education programmes, which are usually limited to the prevention of sexually transmitted diseases, HIV and unwanted pregnancy. Although this approach is necessary in order to achieve enjoyment of the right to health and for the purposes of family planning, it cannot be the principal reason for including sexual education in the curriculum. Sexual education should be considered a right in itself and should be clearly linked with other rights in accordance with the principle of the interdependence and indivisibility of human rights.

62. Another topic frequently omitted from the sexual education curriculum is that of disability. Persons with disabilities often suffer from an unjustified perception of being incompetent or dangerous to themselves. Such prejudices, coupled with laws and practices limiting the legal capacity and ability to act of persons with disabilities, often compromise their right to informed consent,[59] because it is wrongly supposed that they do not have sexual desire or sustain intimate relationships. This amounts to denying an integral part of their personality, namely sexuality, and consequently their right to pleasure and happiness.

63. Sexual education must be free of prejudices and stereotypes that could be used to justify discrimination and violence against any group; it must therefore include a gender perspective that encourages people to think critically about the world around them. Both the hidden curriculum and the omitted curriculum currently play a central role in perpetuating among children the inequalities associated with patriarchal models and drastically reduce children's potential for full

[57] United Nations Development Fund for Women (UNIFEM), *Violence against Women — Facts and Figures* (2007) available at http://www.unifem.org/attachments/gender_issues/violence_against_women/facts_figures_violence_against_women_2007.pdf.

[58] Http://www.amnesty.org/en/library/info/ACT77/001/2008.

[59] See document A/64/272, para. 69.

development.[60] Sexual education should encourage a rethinking of the stereotypical roles assigned to men and women so that real equality can be achieved.

64. In the Special Rapporteur's view, sexual education constitutes a domain in which rights are exercised and, consequently, in which they can also be violated. An example of this is the violence suffered by women subjected to genital mutilation, an aberrant practice supposedly justified by tradition that constitutes a terrible act of violence and violation against women, who find themselves invaded and mutilated and whose physical integrity, health and right to pleasure are denied.

65. In the case of Latin America and the Caribbean, gender issues are stated to be important at all levels. However, the regional average shows that countries are still not dealing with all aspects of sexual inequality in official programmes. Moreover, the question of discrimination based on sexual orientation or preference is practically omitted from school curricula in the region. Only Uruguay reports that it is included in all programmes, while Colombia and Argentina report that it is addressed in most programmes.[45]

66. The male perspective has already been recognized for some years as an important dimension of gender analysis, and an area of action to promote gender equality. It should be borne in mind that patriarchy affects everyone by normalizing and stereotyping roles, thereby imposing needs and ways of being and feeling. But, like any social construct, it can be changed. This important and difficult task must be taken up by all men and women for reasons of gender solidarity and must therefore be tackled explicitly in education.

67. The importance of the sexual diversity approach, which is linked to the gender perspective, should be emphasized. Regrettably, few sexual education programmes and curricula include this approach. The aforementioned Yogyakarta Principles are a fundamental tool for inclusion of the diversity perspective in the public policies that have to be taken into account in education.

68. Unfortunately, certain types of programmes have proved to be of limited effectiveness in achieving the desired results. These include programmes based on a single, rather than a comprehensive perspective. Programmes that focus exclusively on abstinence as the sole option raise various problematic questions[61] because they deny students' right to accurate information that allows them to make informed and responsible decisions.

69. In addition, abstinence-only programmes marginalize millions of young people who are already having sexual relationships and, like programmes promoting abstinence until marriage, do not foster informed and responsible decision-making. In the Special Rapporteur's view, this type of programme normalizes, stereotypes and promotes images that are discriminatory because they are based on heteronormativity; by denying the existence of the lesbian, gay, transsexual, transgender and bisexual population, they expose these groups to risky and discriminatory practices.

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[60] Miguel Ángel Santos Guerra, *Curriculum oculto y construcción del género en la escuela* (University of Málaga, Spain).

[61] John Santelli and others, "Abstinence-only education policies and programs: A position paper of the Society for Adolescent Medicine", in *Journal of Adolescent Health*, No. 38 (2006).

70. From an age perspective, the Special Rapporteur has found that there is a significant gap with regard to adults, including older adults, who are not generally taken into account in States' public policies. However, recent decades have seen significant changes in adult learning, reflecting the principle of lifelong education. The Hamburg Declaration on Adult Learning, adopted under UNESCO auspices in 1997, emphasizes the importance of sexual education for adults and sets out a commitment to "enabling people to exercise their human rights, including reproductive and sexual health rights, and to develop responsible and caring attitudes".

C. The role of families and the community

71. One of the fundamental challenges to achieving change in people's behaviour and attitudes through education is the need to involve families and communities, avoiding the false dichotomy between the family and the State as guarantor of the right to comprehensive sexual education. Studies indicate that in some countries, one third of young women and one fifth of young men aged 15 to 19 say that they have never discussed sexuality-related issues with their parents.[56] Thus, both real life and international law provide ample reason to oppose movements that seek to relieve States of their obligation to provide sexual education in the name of alleged and often non-existent family education.

72. The Special Rapporteur wishes to stress the important role played by families and communities in forming people's identities. However, he also wishes to point out that States have an unavoidable obligation to guarantee education that is free from prejudices and stereotypes. School, as a forum for socialization, opens up access to different perspectives; thus, States and families have complementary roles that are not mutually exclusive with regard to sexual education.

73. Although fathers and mothers are free to choose the type of education that their sons and daughters will have, this authority may never run counter to the rights of children and adolescents, in accordance with the primacy of the principle of the best interests of the child. This implies a need to create forums in which all options and opinions can be discussed within the education process. Particularly in the case of sexual education, people have the right to receive high-quality scientific information that is unprejudiced and age-appropriate, so as to foster full development and prevent possible physical and psychological abuse.

74. Another concern with regard to sexual education is the need to respect the community's cultural and religious values. Comprehensive sexual education presupposes values-based perspectives and may include different moral considerations from a pluralist point of view, but it must also be based on scientific evidence and promote the integration of individuals into a more democratic and egalitarian society. It is a challenge for educational systems and communities to work together so that the concerns of different groups can be expressed without imposing personal moral values on the general public since this compromises the individual's freedom to choose a lifestyle. The Special Rapporteur has seen many cases in which scientific sexual education programmes that had been designed and approved were never implemented because of undue ecclesiastical influence, which is a source of concern.

IV. Conclusions and recommendations

On the basis of the foregoing remarks, the Special Rapporteur considers that:

75. **International human rights standards clearly establish the human right to comprehensive sexual education, which is indivisible from the right to education and is key to the effective enjoyment of the right to life, health, information and non-discrimination, among others.**

76. **States must ensure that they respect, protect and implement the human right to comprehensive sexual education, by acting with due diligence and taking all measures necessary to ensure its effective enjoyment, without discrimination, from the early stages of life. The absence of planned, democratic and pluralist sexual education constitutes, in practice, a model of sexual education (by omission) which has particularly negative consequences for people's lives and which uncritically reproduces patriarchal practices, ideas, values and attitudes that are a source of many forms of discrimination.**

77. **The right to sexual education is particularly important to women's and girls' empowerment and to ensuring that they enjoy their human rights. It is therefore one of the best tools for dealing with the consequences of the system of patriarchal domination by changing social and cultural patterns of behaviour that affect men and women and tend to perpetuate discrimination and violence against women.**

78. **Progress with regard to sexual education has been made in all regions; however, in general there is a worrying lack of comprehensive and sustainable public policies in this area; content is scattered throughout the educational curriculum; and the perspectives of rights, gender, sexual diversity, disability and non-discrimination are not incorporated into the provision of sexual education.**

79. **The Special Rapporteur has noted with particular concern various instances in which sexual education has been obstructed in the name of religious ideas and reiterates that systematic education acts as a guarantor of a democratic and pluralistic environment.**

80. **There are two modalities for the provision of sexual education: it may be provided as cross-cutting content or included as a separate subject in the curriculum. As noted above, the worldwide trend is provide it as a cross-cutting subject at the primary and, to a lesser extent, the secondary school level.**

81. **Sexual education is associated with the prevention of sexually transmitted diseases and unwanted pregnancy; while this is necessary, it cannot provide a basis for State policies, which must consider sexual education as a right in and of itself.**

82. **Since broad segments of the population are excluded from sexual education policies, States need to make a greater effort to reach the people who, in principle, are excluded from the educational system.**

83. **With respect to curricular content, some programmes are still based on an erroneous and partial understanding and do not meet the obligation to provide a scientific, democratic and pluralistic education that is free of prejudice and stereotypes.**

84. **Concerning the form in which the topic is addressed, relatively traditional strategies, such as lectures, predominate although more active, participatory approaches have gradually been included in some cases.**

85. **One general problem arises from shortcomings in teacher training, which tends to perpetuate stereotypical and even discriminatory ideas. This gap undermines teachers' confidence in their ability to do their job properly.**

86. **Last, there is a general lack of follow-up to and monitoring of sexual education policies.**

87. **On the basis of these conclusions, the Special Rapporteur recommends that States should:**

(a) **Eliminate legislative and constitutional barriers to ensuring their people's enjoyment of the right to comprehensive sexual education by adopting and strengthening legislation aimed at guaranteeing that right without any form of discrimination;**

(b) **Encourage the design and implementation of comprehensive, sustainable public policies aimed specifically at ensuring their people's enjoyment of the human right to comprehensive sexual education. These policies should focus on rights, gender and respect for diversity; provide for coordination among agencies and with civil society; and provide the resources necessary to their implementation;**

(c) **Ensure the inclusion of comprehensive sexual education from primary school onwards, taking into account secondary school enrolment rates, the age of first intercourse and other variables in a context of respect and adaptability based on the age of students and the capacities associated with their levels of emotional and cognitive development;**

(d) **In establishing the curriculum and the educational content of sexual education, provide for the inclusion and expansion of a holistic perspective that does not focus exclusively on biology and ensure that, inter alia, the gender dimension, human rights, new patterns of male behaviour, diversity and disability are included;**

(e) **Provide high-quality, specialized teacher training in an institutional environment that supports teachers and increases their confidence through a curriculum framework of medium- and long-term projects;**

(f) **Promote and incorporate various strategies through association with education alternatives such as the media, organizations of civil society, peer education and health-care centres and professionals;**

(g) **Foster respect for cultural relevance and age-specific criteria in the context of comprehensive sexual education;**

(h) **Encourage the inclusion of families and communities as strategic allies in curriculum design and implementation grounded in pluralism and compliance with the obligation to provide comprehensive education, including scientific information based on evidence and human rights standards;**

(i) **Take note of the declaration on "Preventing through Education", signed by the Ministers of Education of Latin America and the Caribbean in**

2008, endorse the commitments established therein and launch a similar initiative within the framework of the United Nations; and

(j) Ensure that all students throughout the country receive comprehensive sexual education with equal quality standards.

88. **The Special Rapporteur also recommends:**

(a) That the Office of the United Nations High Commissioner for Human Rights (OHCHR) should continue to provide assistance to the human rights mechanisms so that they can consider and investigate specific problems relating to barriers and challenges to effective enjoyment of the right to comprehensive sexual education;

(b) That the Human Rights Council should request States to provide information on progress made and problems encountered in their efforts to ensure their people's enjoyment of the right to comprehensive sexual education on the occasion of the Universal Periodic Review; and

(c) That national human rights institutions and civil society should participate actively in the preparation of comprehensive sexual education plans and should help to monitor their implementation and to increase awareness in that area.